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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,340	02/23/2004	Brown Lyle Wilson	104-34620	2356

7590 01/30/2007
BRACEWELL & PATTERSON, L.L.P.
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EXAMINER

VERDIER, CHRISTOPHER M

ART UNIT PAPER NUMBER

3745

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/784,340	Applicant(s) WILSON ET AL.	
	Examiner Christopher Verdier	Art Unit 3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5,7,8,10-13,15 and 17-20 is/are allowed.
- 6) ☒ Claim(s) 6 and 14 is/are rejected.
- 7) ☒ Claim(s) 9,16,21 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2-23-04, 10-24-06 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Applicant's Amendment dated October 24, 2006 has been carefully considered but is non-persuasive. Claims 1-22 are pending. The Replacement Sheet for figures 1 and 2 dated October 24, 2006 is acceptable to the examiner. Applicant has corrected several of the informalities in the specification, and has amended claims 2, 4, and 19 to overcome the objection to the specification as failing to provide proper antecedent basis for the claimed subject matter. The claims have been amended to overcome the informalities and most of the rejections under 35 USC 112, second paragraph set forth in the Office action of July 20, 2006. Correction of these matters is noted with appreciation.

Applicant has argued concerning the objection to the specification to as failing to provide proper antecedent basis for the claimed subject matter that the original claims are considered to be part of the specification and that the claimed subject matter need not be described literally in order to satisfy the written description requirement under 35 USC 112. While applicant is correct that the original claims are considered to be part of the specification, the written description requirement under 35 USC 112 is a separate issue from the issue of the specification failing to provide proper antecedent basis for the claimed subject matter. No rejections under 35 USC 112 based on the written description requirement were made. Only an objection to the specification as failing to provide proper antecedent basis for the claimed subject matter was made, as sanctioned by both 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Applicant has argued that concerning claims 6 and 14, that a person of relevant skill in the art would view figure 6 of the application and see that each diffuser blade is curved along an axial plane and a radial plane. Applicant has further argued that there is no requirement in the MPEP that the Applicant copy

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and paste the claims into the Detailed Description of the Preferred Embodiment, and that such an amendment should not be required because support is already found in the claims and the figures, and such an amendment needlessly increases the length of the application. These arguments are not persuasive. MPEP § 608.01(o) clearly states that “The meaning of every term used in any of the claims should be apparent from the descriptive portion of the specification with clear disclosure as to its import; and in mechanical cases, it should be identified in the descriptive portion of the specification by reference to the drawing, designating the part or parts therein to which the term applies.” Although a later section of MPEP § 608.01(o) refers to new claims and amendments to claims, this equally applies to originally filed claims and goes on to state “This is necessary in order to insure certainty in construing the claims in the light of the specification, *Ex parte Kotler*, 1901 C.D. 62, 95 O.G. 2684 (Comm’r Pat. 1901). See 37 CFR 1.75, MPEP § 608.01(i) and § 1302.01. Note that examiners should ensure that the terms and phrases used in claims presented late in prosecution of the application (including claims amended via an examiner’s amendment) find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description, see 37 CFR 1.75(d)(1). If the examiner determines that the claims presented late in prosecution do not comply with 37 CFR 1.75(d)(1), applicant will be required to make appropriate amendment to the description to provide clear support or antecedent basis for the terms appearing in the claims provided no new matter is introduced.” As Applicant correctly recognizes, the original claims are considered to be part of the specification. Therefore, the specification may be amended to state the claim features that are not described in the specification without introducing new matter.

Concerning Applicant's argument that on page 1, lines 1-6 of the specification, the term "PATENT APPLICATION", and the attorney docket number do not have to be removed because there is nothing in the rules of MPEP that requires Applicant to not include such information on the first page of the application, and the arguments bridging pages 13-14 of the Remarks dated October 24, 2006, the examiner respectfully disagrees. 37 CFR 1.77 pertains to the arrangement of the specification and states that the first section should include the Title of the invention, which may be accompanied by an introductory portion stating the name, citizenship, and residence of the applicant unless it is included in an application data sheet. See also MPEP 608.01(a). Applicant may retain the inventor names, but the phrases "PATENT APPLICATION", "ATTORNEY DOCKET:", and "104-34,620" should be deleted. The attorney docket number is most often included in the upper corner of patent applications.

With regard to the rejection of claims 6 and 14 under 35 USC 112, second paragraph, Applicant has argued that "is curved in more than one plane" is clear and one skilled in the art would understand this phrase. The examiner respectfully disagrees because the phrase indicated as unclear in the previous Office action in claims 6 and 14 states "is curved in more than one of plane", which is unclear. It appears that this phrase should be -- is curved in more than one plane --.

Applicant's argument that Vartapetov 3,267,869 does not disclose that a radial line passing through an outer end of the leading edge of each of the vanes is rotationally forward of

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an inner end of the leading edge of each of the vanes (see the Remarks dated October 24, 2006, page 17, last paragraph and page 18, first paragraph) is persuasive. The rejection of claims 1, 3, 5-8, 17-18, and 20-22 under 35 U.S.C. 103(a) as being unpatentable over Vartapetov 3,267,869 in view of Fuller 3,438,329 and the rejection of claim 2 under 35 U.S.C. 103(a) as being unpatentable over Vartapetov 3,267,869 and Fuller 3,438,329 as applied to claim 1 above, and further in view of Japanese Patent 62-96,799 are withdrawn.

Election/Restrictions

Independent claims 1 and 10 are allowable. The restriction requirement between species I and II, as set forth in the Office action mailed on March 17, 2006 has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 9 and 16, directed to a gas separator downstream of the conditioning impeller, are no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

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Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Information Disclosure Statement

The information disclosure statement filed February 23, 2004 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of French Patent 1,025,250 and Soviet Union Patent 653,428 which are not in the English language. The information referred to therein has not been considered.

The U.S. application number 10/656,411 on the information disclosure statement filed February 23, 2004 has been crossed off and the corresponding published U.S. patent application listed on form PTO-892 by the examiner.

Specification

On page 1, lines 1-6 "PATENT APPLICATION", "ATTORNEY DOCKET:", and "104-34,620" should be deleted since they are superfluous. 37 CFR 1.77 and MPEP 608.01(a).

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The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Claim 6, which appears to recite that each diffuser blade comprises a portion that is curved in more than one plane, has no antecedent basis in the specification.

Claim 7, which recites that each impeller vane has a straight median line offset from the axis of the hub, has no antecedent basis in the specification.

Claim 10, which recites an outer casing with an axial centerline with the shaft extending thorough a portion of the outer casing along the axial centerline of the casing, has no antecedent basis in the specification.

Claim 14, which appears to recite that each diffuser blade comprises a portion that is curved in more than one plane, has no antecedent basis in the specification.

Claim 17, which recites an outer casing with an axial centerline with the shaft extending thorough a portion of the outer casing along the axial centerline of the casing, has no antecedent basis in the specification.

Claim Objections

Claims 9, 16, and 21-22 are objected to because of the following informalities:

Appropriate correction is required.

In claim 9, line 3, -- to -- should be inserted after “relative”.

In claim 16, line 3, -- to -- should be inserted after “relative”.

In claim 21, line 3, -- a -- should be inserted after “rotating”.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 6, which recites that each diffuser blade comprises a portion that is curved in more than one of plane is unclear as to what is meant by "is curved in more than one of plane". It appears that this should be changed to -- is curved in more than one plane --. Claim 14, which recites that each diffuser blade comprises a portion that is curved in more than one of plane is unclear as to what is meant by "is curved in more than one of plane". It appears that this should be changed to -- is curved in more than one plane --.

Allowable Subject Matter

Claims 1-5, 7-8, 10-13, 15, and 17-20 are allowed.

Claims 9, 16, and 21-22 contain allowable subject matter; the informalities in these claims should be corrected.

Claims 6 and 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

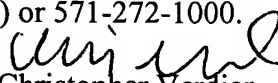
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Verdier whose telephone number is (571) 272-4824. The examiner can normally be reached on Monday-Friday from 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward K. Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

C.V.
January 19, 2007


Christopher Verdier
Primary Examiner
Art Unit 3745